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ABSTRACT

This paper provides a history and analysis of educational finance in Wyoming. It offers a summary of the funding model that is currently in place and that has been challenged in court--the fourth such challenge in the past 30 years. The article focuses on the current litigation. It discusses the funding formula that was adopted by the state legislature and the various court challenges that have been directed at this formula. The report describes the process behind the determination of funding adequacy; external cost adjustments; and whether the formula components, such as the one-fourth mile rule, the small-school and small-district adjustments, funding for at-risk students, the seniority adjustment, regional cost adjustment, and miscellaneous general fund issues, are constitutionally cost-based. The paper reports that the state supreme court ruled that the following components of the general-fund formula were unconstitutional: the one-fourth mile rule, where a necessary school can only exist if there is no other school of the same type or classification within one-fourth mile; the small-school adjustment, where smaller schools receive a graduated rate per student; the small-school district adjustment, where any district with fewer than 1,351 students receives special compensation; and the regional cost of living adjustment. (RJM)

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# WYOMING

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## *EDUCATIONAL FINANCE REFORM IN WYOMING*

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**February, 2000**

### Background

For the fourth time in the past three decades, major court battles have raged over the method and equity of funding public education in Wyoming. As of this writing, portions of the 1999 legislation, created directly as a result of the Wyoming Supreme Court s 1995 decision to invalidate the entire school funding mechanism, Campbell (1995), have been challenged.

In this most recent decision, Campbell (2000), the court held that except for certain deficiencies, an adequate education is substantially assured by the Legislature s revised funding system. There were, however, several components of the system that impermissibly discriminate against some students. In particular, legislative adjustments for small schools and small school districts serve to create two distinct classes of students, which runs counter to the principles of equal protection provided by the State Constitution.

The Court stipulated that nothing in their decision should suggest a lack of support for small schools. By virtue of Wyoming s unique geography and demographic makeup, a substantial need for numerous small schools will continue to exist, but funding for their operation must be assured in accordance with the Campbell (1995) mandate. Campbell (2000).

After the Campbell (1995) decision, the State Legislature worked to develop and adopt a new school finance system. The Legislature hired the consulting firm Management Analysis and Planning Associates, LLC, commonly known as MAP, to conduct a cost of education study. In 1997, in reviewing the Legislature s work, the court found that with the exception of the small school issues, MAP s cost of education study seemed valid, and that the level of funding for elementary education was adequate to deliver the required basket of goods and services . The court felt however, that the State had not demonstrated that the funding for middle level and high school education could deliver the required basket of goods and services . The court also expressed concern regarding the data and methods used by MAP to provide financial adjustments for small remote schools. With this additional input from the court, the Legislature continued working on the funding formula eventually adopting a revised school finance system during the Legislature s 1999 General Session.

It is interesting to note that application of the revised school finance formula during the 1999-2000 school year yielded a $9,226.00 per ADM (Average Daily Membership) disparity in funding between the high and low districts. This funding disparity is even greater than the disparity that existed before the Supreme Court s decision in Campbell (1995).

Given this funding disparity, and the court s earlier finding that the state had not proven that the authorized funding was sufficient to deliver the basket of goods and services to all pupils, the Plaintiff s filed further action with the court resulting in the court s most recent decision, Campbell (2000).

**Brief Summary of the Current Funding Model**
The Wyoming school finance system was designed to provide equal opportunity for each Wyoming child to receive a quality education. The MAP group identified the resources needed to deliver the proper

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education or basket of goods and services . The MAP model is based upon the actual cost of delivering the education to students. The model determines a per pupil dollar amount necessary based upon circumstances of the student, i.e., (grade level, disability, English proficiency, etc.), and circumstances of the district, i.e., (population density, regional costs of living, teacher seniority levels, etc.). Wyoming Legislative Service Office, (1999)

District entitlements or payments are determined under a finance system based upon the classroom unit and ADM, Average Daily Membership, for each district. In essence, the system compares the amounts guaranteed to a district through the cost-based per pupil dollar amount to other revenues available to that district. This comparison results in a determination of district entitlement from the state. If the guaranteed amount exceeds local resources, the district is entitled to a payment from the state. If the amount the local district can generate exceeds the guaranteed amount, then the district is a recapture district and the excess above the guaranteed amount must be paid to the state.

On a statewide basis, Wyoming s tax base comes primarily from three sources, the property tax, approximately ~~44~~%, Sales and Use Tax, approximately 35 %, and Mineral Severance Tax, approximately 21 %. Equality State Policy Center, (1999)

The basket of educational goods and services defined by the Legislature, includes the identification of a common core of knowledge and skills as follows: Wyoming Legislative Service Office, (1999)

| Common Core of Knowledge | Common Core of Skills |
|---|---|
| Reading/Language Arts | Problem Solving |
| Social Studies | Interpersonal Communications |
| Mathematics | Keyboarding and computer applications |
| Science | Critical thinking |
| Fine Arts/performing Arts | Creativity |
| Health and Physical Education | Life skills, including personal financial management skill |

The school funding formula, as recommended by MAP, is best explained by dividing the formula into two major functional areas: (1) Dollars per ADM based upon the three prototypical school types; i.e., Elementary K-5; Class size = 16; School size = 288= $6,187/ADM ; Middle Grades, 6-8; School size = 300= $6,174/ADM; and, High School 9-12; Class size = 21; School size = 600, = $ 6,405/ADM and, (2) adjustments to the dollars per ADM.

Adjustments to the basic formula can be described by grouping them into three categories as follows: (1) Adjustments reflecting actual costs, i.e., transportation, special education, and teacher extra compensation.; (2) Adjustments based upon student population, i.e., small schools, small district adjustments, economically disadvantaged youth, and limited English speaking youth; (3) Adjustments for internal equity, i.e., adjustments made by separate formula in which a district receives more or less funding depending upon certain circumstances including, teacher seniority, and regional cost of living. Wyoming Legislative Service Office, (1999)

**Discussion of the Ruling, Campbell (2000)**

**General Fund**

Washakie (1980) and Campbell (1995) established two distinct constitutional prerequisites. Washakie (1980) guarantees equal access to the wealth of the state as a whole. Campbell (1995) guarantees sufficient funding to deliver the proper educational package of goods and services to Wyoming students. The constitution does not define adequacy but simply suggests that the level of funding be reasonably calculated to deliver an adequate education to students regardless of where they live.

The more difficult question posed in this litigation relates to the equality of the finance system. It is clear that a flat rate per student distribution of funds will likely create unequal educational opportunities. In fact,

Campbell (1995) stipulates that equal educational opportunities be funded disparately, but in a manner which is cost based or the state must show that a compelling reason justifies [the] disparity. Campbell, 907 P.2d at 1276, (1995).

**Funding Adequacy**

The court handled the issue of funding adequacy in a most interesting way. The court utilized the results of MAP s Adequacy Study, conducted on March 20-22, 1998, which brought together a panel of 18 professional educators from around the region, but excluding any from Wyoming. Panel members were asked to design and staff a program that they believed would successfully deliver the basket of educational goods and services to every student.

The MAP report indicated that the independent teams of education experts unanimously agreed that adequate levels of resources had been provided to deliver the basket of educational opportunities to every student This was reinforced when the court found that the state had met its burden of proving that the revised school funding system was adequate to provide the basket of goods and services to Wyoming students.

**Kindergarten Error**

The Plaintiffs argued that they were entitled to payment of funds that they would have received had the legislation properly accounted for kindergarten during the 1998-99 school year. The legislation had contained an error in ADM, counting kindergarten students as a full ADM, rather than 1/2 ADM. The court indicated that absent proof that this shortcoming impacted the districts abilities to deliver the basket, their claim must be denied.

**External Cost Adjustment**

The Plaintiffs contended that the MAP model adopted by the Legislature was designed to fund education at cost. They also noted that the legislature had updated school expenditure data during 1998 and 1999. Since the formula is based on costs to reflect the 1996-97 district actual expenditures, the Plaintiffs argued that the funding model must necessarily fail to deliver the basket of goods and services. The court ruled that failure to provide a mandatory external cost adjustment did not deprive Wyoming students of funding sufficient to deliver the basket of educational goods and services. The court also noted that the Legislature had adopted W.S.A. Sec. 21-13-309 (r), which provides that, the Joint Appropriations Interim Committee submit a recommendation to the legislature and governor, each year by November 1st, regarding whether an external cost adjustment needed to be provided.

**Equality — Are the Formula Components Constitutionally Cost-based?**

**(a) The 1/4 Mile Rule**

Under the 1999 school funding legislation, elementary schools and high schools are defined both in terms of their ADM and their proximity to other schools. According to the legislation, a necessary school can only exist if there is no other school of the same type or classification within the same school area, i.e., 1/4 mile. The rationale for this was undoubtedly to discourage a school district from taking advantage of increased funding from the state specified in the small school calculations of the formula. The court ruled that this was unconstitutional. In their ruling the court noted that there was no evidence proving a cost difference in running two schools within a 1/4 mile of each other, therefore the classification violates the equal protection found in the constitution.

**(b) The Small School Adjustment**

All parties to this litigation agreed that some type of small school adjustment was needed because of the small schools inability to take advantage of economies of scale. The states expert consultants, MAP, carried out a series of studies to identify the actual cost of education for students in small schools. As a result they recommended to the Legislature that small elementary schools, from ADM 31 to 199, and high schools

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from 49 to 399, receive a graduated rate per student, which gradually decreases with each child under the 200 ADM for elementary schools, and 400 for high schools.

MAP s analysis of the small school relationship indicated that as students are added to a base of 30 for elementary schools, the cost of providing an adequate education declined from approximately $9,000.00 per ADM to $6,000.00 per ADM. Similarly, as students were added to the high school base of 49 the cost of providing an adequate education declined from approximately $10,000.00 to approximately $7,000.00.

In their review the court noted that the Legislature failed to implement their own expert s advice by not adopting a gradually declining enhancement program for small schools. The current legislation provides the same adjustment for small schools regardless of size. This assumes that a school of 201 students benefits from the economies of scale while a school of 199 suffers from diseconomies of scale. The court therefore found the small school adjustment unconstitutional.

**(c) Small District Adjustment**

The current legislation provides for enhanced funding of small school districts. Any district with 1,350 students or less receives $50,000.00 for each attendance center in addition to the one in which the district office is located. Districts with 900 students or less receive additional funds for administration costs.

The court noted that neither the original MAP proposal, nor the 1997 legislation provided for a small district adjustment. Between 1997 and the 1999 legislation, members of the Small School Coalition of Wyoming met with the Legislature s Select Committee on School Finance, and after a great deal of negotiation, the Legislature adopted what has become known as the small schools settlement. The court found that the states own expert recommended against the adoption of a small district adjustment and that the state had not shown that the district adjustment was cost-based . Therefore the small district adjustment was found to be unconstitutional.

**(d) Funding for At-Risk Students**

In Wyoming law, At-risk Students is an inclusive term used to describe students of Limited English, Economically Disadvantaged Youth, and Gifted and Talented Students. When a school has a concentration of 5% or more Limited English Students, they receive 15% more funding for each identified LES student. Similarly, when a concentration level of economically disadvantaged youth equal or exceed 150% of the statewide average, the district receives $500 per EDY identified student. There is no statutory allocation for gifted students.

The Plaintiff s argued that funding for these students did not reflect the real cost of serving them and that the state did not provide specific costs for each program. The court indicated that simply because there was no categorical funding, nor was there evidence suggesting that these students were being deprived of equal access to the basket of goods and services, the state would prevail.

**(e) Seniority Adjustment — Teachers, Classified and Administrative Staff**

Each district receives additional funds for teacher seniority based upon the aggregate number of years of experience in the district for the prior school year, up to 20 years. No such funds are provided for classified or administrative staff. The Plaintiffs contended that the seniority adjustment failed to reflect the actual cost of increased seniority. The court agreed, however, indicated that since every district must live with the same fiscal restrictions imposed by the formula, the adjustment did not violate the equal protection clause. The ruling favored the state.

**(f) Regional Cost Adjustment**

In their recommendations to the Legislature, MAP identified the importance of providing for a regional cost of living adjustment. Recognizing that the cost of living varies considerably within the numerous communities, MAP outlined a formula for determining the regional cost of living to be based upon the

Wyoming Cost of Living Index, as determined by the Division of Economic Analysis, Department of Administration and Information.

MAP recommended the exclusion of the medical and housing components because they assumed that school districts provide medical insurance for each employee, and because there was an amenity value to living in different regions in the state.

The Plaintiffs argued that the regional cost adjustment did not reflect the actual cost of living in different regions of the state. The court in reviewing this complex matter acknowledged significant cost variations throughout the state, but felt that by eliminating 48% of the WCLI index, MAP had undermined the validity of the formula. Thus, the court ruled that the regional adjustment as stipulated was unconstitutional.

**(g) Miscellaneous General Fund Issues**

During the 1999 trial, the court reviewed the Plaintiffs allegations of constitutional violations on several additional components of the school funding formula. These assertions involved special education, vocational education, student activities and extra-duty pay, additional pay for education staff development of certified personnel, routine building maintenance, and the transportation adjustment.

While the specific issues for each formula component vary, the court in each instance ruled in favor of the state. In their ruling, the court indicated that in the case of special education and the transportation adjustment, no penalty existed as related to the principles of equal protection because of a one year deferral of the payment to school districts. Such a delay gives the Department of Education time to verify the necessity of claims and does not constitute a violation of the Constitution. Similarly, in their ruling on the issues surrounding vocational education, student activities and extra-duty pay, pay for additional education for certified staff, and routine building maintenance, the court specified that the lack of a specific categorical component does not create a constitutional issue, thus ruling in the states favor.

**General Fund Summary — Campbell (2000)**

In summary, Judge Kalokathis, of the District Court of the First Judicial District, Laramie County, State of Wyoming, found that the Legislature had studied, developed, and enacted a school finance system that, in the main, provides Wyoming s students with equal access to the proper basket of educational goods and services. Having said that, however, the Judge indicated that even though the basic school finance system is no longer constitutionally infirm, there still remains a few components of the system that are deficient in ensuring equality. For these reasons the court found the following components of the General Fund formula to be unconstitutional: 1) The 1/4 Mile Rule; 2) The small school adjustment; 3) The small school district adjustment; and, 4) The regional cost of living adjustment.

**Discussion of the Ruling, Campbell, (2000) - Capital Outlay Fund**

During the early phases of the litigation, Campbell, (2000), the court made the decision to pull out the capital construction financing portion of the case and deal with it separately. The court noted that the 1999 Legislature had created a new school capital construction funding system that provided two mechanisms for meeting the capital construction needs of school districts; (1) a mill levy supplement program, and (2) a grant program.

The mill levy supplement program requires districts to levy 2 mills before they are eligible to receive the supplement. In such situations, the state picks up the debt service load of any district not equal to or higher than 150% of the statewide average. Districts with low assessed valuations with needs beyond their bonding capacity must seek a grant from the state.

The grant application process involves submission of a request to the Wyoming Department of Education, which must be approved by the State Superintendent, the Governor, and the Legislature. Each district must levy bonds at 90% of their assessed valuation and must demonstrate that their proposed capital project will


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remediate or replace facilities determined to be inadequate and in immediate need of capital construction as defined by the Department of Education.

The court noted that districts with sufficient local wealth were able to construct capital facility projects without the necessity of meeting the state s definitions of inadequate or immediate need . As such, the court indicated that these statutes continue to discriminate against school districts on the basis of wealth and therefore violate the equal protection guarantee found in the Wyoming Constitution. Since this provision of the formula fails to provide adequate and equal educational opportunities to the children of the state, the court ruled the capital facilities provisions of Wyoming law to be unconstitutional.

As of this date, the District Court s decisions, (Campbell, 2000), on the general fund and capital construction fund issues have been appealed by the Plaintiffs to the Supreme Court of the State of Wyoming.

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